

High Court strikes again – knocking out Hollie Hughes as replacement senator

Written by Michelle Grattan, Professorial Fellow, University of Canberra

The High Court has ruled out Liberal Hollie Hughes as a replacement for former Nationals senator Fiona Nash on the ground that she had an office of profit under the Crown during the election period.

Once again, the court has taken a very literalist approach to the Constitution. Hughes was appointed to the Administrative Appeals Tribunal this year but quit immediately after the court declared Nash ineligible to sit in parliament because she had been a dual British citizen when she nominated.

Hughes' problem was that the election period is considered to extend until the seat is filled. The court did not accept the argument of Commonwealth Solicitor-General Stephen Donaghue that "the process of choice ends with the poll".

Hughes was the next candidate on the Coalition joint ticket for New South Wales for the 2016 election and was set to get the position on the recount. The seat is now expected to go to Jim Molan, the following candidate on the ticket.

There would be some irony in his election because he had been pushed to an unwinnable position on the ticket, but still managed to get more than 10,000 votes personally.

Molan, a former senior military officer, was key in the shaping of the Coalition's border protection policy.

He has been one of those at the forefront of the move within the NSW Liberal division to get a more democratic structure. He has put himself forward as a candidate for state president when the party's state council meets in December to consider reforms that were passed by a rank-and-file convention earlier this year.

Molan said late on Wednesday that it was too early to say much about the Senate seat beyond "I believe I am eligible and I would take the job if it were offered". He had no citizenship

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problems nor did he have any office of profit under the Crown, he said.

The High Court will publish its reasons later.

Michelle Grattan does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.

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